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August 2, 1999

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BY HAND DELIVERY

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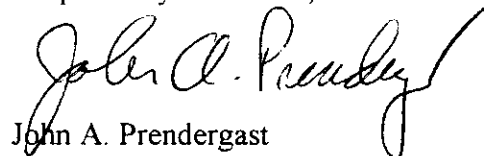
**Re: Private Radio Auction Proposal
WT Docket No. 99-87 and RM-9332**

Dear Ms. Salas:

On behalf of the Central Station Alarm Association, and pursuant to Section 1.415(a) of the Commission's Rules, we are hereby filing an original and six copies of comments in the above-referenced rule making proceeding.

If you have any questions regarding this matter, please do not hesitate to contact this office.

Respectfully submitted,



John A. Prendergast
D. Cary Mitchell
Counsel to Central Station
Alarm Association

Enclosure

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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AUG 2 1999

WT Docket 99-87
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of Sections 309(j) and)
337 of the Communications Act of 1934,)
as Amended)
)
Promotion of Spectrum Efficient)
Technologies on Certain Part 90)
Frequencies)
)
Establishment of Public Service Radio)
Pool in the Private Mobile Frequencies)
Below 800 MHz)

RM-9332

COMMENTS OF THE CENTRAL STATION ALARM ASSOCIATION

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(202) 659-0830

Date: August 2, 1999

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SUMMARY

The Federal Communications Commission (“FCC” or “Commission”) should view the handful of low-power channels that have previously set aside for the exclusive use of central station protective services as a “public safety radio service” that is exempt from auction. Central station alarm monitoring services fall squarely within the definition of “public safety radio services” contained in the Communications Act of 1934 (“Communications Act”), as amended by the Balanced Budget Act of 1997 (“Balanced Budget Act”). This fact is further supported by the legislative history of the Balanced Budget Act.

Central Station Alarm Association (“CSAA”) members fulfill a fundamental spectrum use goal articulated by the Communications Act. These companies and associations are dedicated solely to “promoting the safety of life and property through the use of wire and radio communication.” Although not allocated Public Safety Radio Service frequencies, central station alarm services often act as the “front line” in dispatching municipal police and fire units, whose radio operations are part of the Public Safety Radio Service. Thus, mobile voice, and fixed signaling transmissions work in tandem in “promoting the safety of life and property.”

By classifying central station alarm frequencies in the 460 megahertz band as public safety radio services, CSAA emphasizes that the Commission is not being asked to extend the statutory exemption from auctions to alarm company communications operating on other frequency bands. It would simply be excluding from auction a small group of already-restricted channels that are currently used by the alarm industry in providing its public safety function.

As an exempt public safety radio service, the FCC should continue licensing the central station exclusive use channels on a first-come-first-served basis. This licensing methodology ensures efficient and intensive use of spectrum and alleviates administrative burdens on the Commission, since companies that are eligible for these frequencies must first complete the coordination process and resolve any potential conflicts before they are allowed to file their applications. To further preserve the integrity of these channels, the FCC should designate the Alarm Industry Communications Committee (“AICC”), an affiliate of CSAA, as the exclusive coordinator for the frequencies reserved for central station use.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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Pool in the Private Mobile Frequencies)	
Below 800 MHz)	

COMMENTS OF THE CENTRAL STATION ALARM ASSOCIATION

The Central Station Alarm Association ("CSAA"), by its attorneys, hereby submits its comments in response to the *Notice of Proposed Rule Making* ("Notice") in the captioned proceeding. The *Notice* seeks comment on various matters relating to the implementation of Sections 309(j) and 337 of the Communications Act of 1934 ("Communications Act"), as amended by the Balanced Budget Act of 1997 ("Balanced Budget Act").¹ As described below, the Federal Communications Commission ("FCC" or "Commission") should view the handful of channels that have been allocated for the exclusive use of central station protective services as a "public safety radio service" that is exempt from auction. To implement this exemption, the alarm industry should also be given exclusive responsibility for coordinating the use of central station exclusive use channels to further protect the integrity of these vital communications.²

¹ Pub. L. No. 105-33, Title III, 111 Stat. 251 (1997).

² CSAA has concerns about whether it is appropriate for the FCC to conduct auctions for shared Part 90 channels in general, and is exploring those concerns through its participation in the Land Mobile

I. PRELIMINARY STATEMENT

CSAA was created in 1950 and represents the vast majority of entities providing central station alarm security protection services approved by Underwriters Laboratories, Factory Mutual and similar agencies, in the manner contemplated by Section 90.35(c) of the Commission's Rules.

CSAA members fulfill a fundamental spectrum use goal articulated by the Communications Act. These companies and associations are dedicated solely to "promoting the safety of life and property through the use of wire and radio communication."³ Although not allocated Public Safety Radio Service frequencies, central station alarm services often act as the "front line" in dispatching municipal police and fire units, whose radio operations are part of the Public Safety Radio Service. Silent sentinels located on a customer's premises sense fire, intruders, medical emergencies or other threats, and instantly transmit this data to a central station. The central station in turn alerts the dispatch office of municipal authorities, usually police or fire departments. The municipal operation then transmits over Public Safety Radio Service frequencies to dispatch mobile police, fire and ambulance units. Due to direct interconnection with police departments in many instances, the fixed signaling transmissions are often part of a seamless public safety dispatch operation. A central station alarm office also may dispatch mobile units of a private security force, further preserving state and local public safety resources. Thus, mobile voice, and fixed signaling transmissions work in tandem in "promoting the safety of life and property." Pursuant to paragraph 44 of the *Notice*,

Communications Council (LMCC). However, the instant comments are focused solely on the applicability of the auction mechanism to the channels that have been earmarked by the FCC for alarm company use.

³ Section 1 of the Communications Act, 47 U.S.C. § 151 (1996).

central station alarm operations therefore would qualify as public safety operations even if the definition is restricted to radios used “primarily” to safeguard life, health and property. While central station alarm services may be provided to members of the public, the communications channels are for internal use only, and are not made commercially available to the public.

CSAA members make efficient use of spectrum. First, many central station alarm signaling operations already operate at a very narrow channel width, 5 kHz – *i.e.*, the bandwidth which will eventually be implemented through the final phase of the Commission’s “refarming rules.” Second, central station alarm signaling services operate in a highly efficient manner. Fixed signaling operations are licensed as mobile units, pursuant to Rule Section 90.267, and are designed to send brief bursts of data. On a mobile-equivalent basis, central station alarm signaling conserves use of the spectrum.

Underwriters Laboratories (“UL”) tests and approves central station alarm services, providing standards for this industry. UL grades central station alarm services according to two measures: response time and security of transmission. Complementary radio functions of mobile voice communications and fixed signaling interact to fulfill both measures. Response time is minimized where data signaling transmits the alarm information more efficiently to mobile dispatch centers than would time-consuming mobile voice units, or dial-up wireline circuits. For higher grades of service (*i.e.*, where greater security is needed), UL requires at least two methods to send the alarm signal, one of which is radio. Moreover, central station alarm is the only Private Land Mobile Radio Service (“PLMRS”) use subject to systematic sabotage attempts. In many circumstances, radio has proven to be a more secure medium than telephone lines, which are

increasingly vulnerable to cutting and vandalism. Thus, mobile voice and fixed signaling interact to provide the quality of service – speed, and secure transmissions – required by industry standards, and codified by UL.

Central station alarm services play a vital role in private business, and provision of government services. For example, financial institutions require insurance coverage of inventory before financing most business ventures. In turn, insurance companies will not insure many types of inventory without central station alarm protection meeting specified UL grades. Likewise, many federal, state and local government facilities, which also have available military or police protection, are protected by central station alarm services. For example, CSAA member ADT Security has a multi-year contract with the United States Marshals Service to provide security services for all United States courthouses. Central station service providers also offer computer security services, which are increasingly important as the world's economy becomes more dependent on computers, and as computer "hackers" pose a greater threat to these operations.

Thus, CSAA members provide a crucial link in the operation of many sectors of industry and government. Some 6,440,000 U.S. alarm systems are monitored by companies that are regular members of CSAA, all of which have earned a UL-Listing for their central station. Another 2,310,000 systems are monitored by non-CSAA member companies whose stations are UL-listed. Industry statistics have shown that homes protected by burglar alarm systems are *seven times less likely* to be burglarized than homes that aren't protected.

With these points in mind, CSAA provides its comments on the Commission's Notice below.

II. AN ANALYSIS OF THE BALANCED BUDGET ACT SHOWS THAT CENTRAL STATION ALARM FREQUENCIES SHOULD NOT BE SUBJECT TO AUCTION

In adopting the Balanced Budget Act, Congress amended Section 309(j)(1) of the Communications Act to change the methodology that the FCC is to use in determining whether a particular license or class of licenses should be subject to competitive bidding. Under the 1993 auction standard, the Commission had authority to use auctions to dispose of mutually exclusive initial license applications *only* if the particular radio service was deemed auctionable using criteria described in Section 309(j)(2). Under the Balanced Budget Act, the Commission is required to dispose of mutually exclusive initial license applications by auction *unless* an auction would not serve the public interest, or the licenses are for a short list of exempt services: Public safety radio services, public broadcasting services, or digital television service licenses given to broadcasters in exchange for their analog licenses. However, the general auction authority provision under the Balanced Budget Act makes prominent reference to the obligations under Section 309(j)(6)(E) to use engineering solutions, negotiation, threshold qualifications, service regulations, or other means to avoid mutual exclusivity.

When determining whether a license is auctionable, the Commission should therefore first ask whether an auction would serve the public interest, or if mutual exclusivity can be eliminated through engineering solutions, or other means described in Section 309(j)(6)(E). If a service is auctionable, the Commission must then determine whether the particular licensed frequencies are for one of the exempt categories. If so, those channels must be exempt from auction. As discussed below, the central station alarm frequencies qualify for the public safety exemption of Section 309(j)(2). AICC further submits that where the types of eligible users assigned to those frequencies is

limited, and where the number and bandwidth of the channels is small, it is in the public interest for the Commission to allow such users to avoid mutual exclusivity among themselves.

In this regard, the central station alarm frequencies are shared among a small, defined group of users (*i.e.*, UL-listed central stations). In adopting the current pooling plan (combining numerous radio services into an Industrial/Business pool), the Commission wisely retained a condition on the handful of frequencies primarily used by the alarm industry, restricting the use of these channels to UL-listed central station alarm providers.⁴ The alarm industry has historically been allocated exclusive use of five high-power primary frequency pairs for mobile communication and four low-power frequency pairs in the 460 megahertz band for use in alarm signaling operations.⁵ In larger metropolitan areas, there may be several central station alarm companies sharing a single channel. The Commission is obligated under Section 309(j)(6)(E) of the Act to recognize that such shared use among central station alarm companies eliminates mutual exclusivity. Since non-central station entities cannot utilize the restricted frequencies, and eligible central station operators have been able to avoid frequency conflicts through the frequency coordination process, the public interest would not be served by artificially creating mutual exclusivity for these few channels.⁶

⁴ See Rule Section 90.35(c)(63)-(66).

⁵ *Id.*

⁶ Given the restriction of alarm channels to central station use, the only entities that could file mutually exclusive applications would be two UL-listed central station alarm service providers. Theoretically, an auction could be held between such applicants in a "restricted eligibility" auction as discussed in paragraph 82 of the *Notice*. However, the instances of such filings would be infrequent, and on such a small scale, that the Commission could not justify using the resources necessary to run an auction for such conflicts. As a practical matter, AICC has been able to resolve the few instances of conflicting filings between central station applicants without difficulty.

III. THE PUBLIC SAFETY EXEMPTION SHOULD INCLUDE CHANNELS CURRENTLY RESERVED FOR CENTRAL STATION ALARM COMPANY USE

In Section 3002(a)(2)(A) of the Balanced Budget Act, Congress chose to exempt certain “public safety radio services” from the Commission’s expanded auction authority. The statute defines “exempt public safety radio services” as including “private internal radio services used by State and local governments and non-government entities, and including emergency road services provided by not-for-profit organizations, that (i) are used to protect the safety of life, health or property, and (ii) are not made commercially available to the public.”⁷ The Commission therefore seeks comment on how it should define “public safety radio services” for purposes of the statutory exemption. As described below, central station alarm monitoring services fall squarely within the above definition of public safety radio services. Moreover, including the radio operations of central station alarm companies within the definition of public safety radio services is consistent with the intent of Congress, as evidenced by the legislative history of the Balanced Budget Act.

The Commission has tentatively concluded that “public safety radio services” should include, at a minimum, all of those Private Land Mobile Radio Services that are currently assigned to the Public Safety Radio Pool.⁸ CSAA supports this proposal. Radio services used to dispatch and communicate with police, fire, and rescue squads are among the most vital services used to protect the safety of life, health and property. Moreover, due to their primary function of alerting municipal public safety departments (including direct interconnection in many instances), the fixed signaling transmissions of

⁷ Balanced Budget Act at § 3002 (a)(2)(A).

⁸ Notice at para. 27.

central station alarm companies are an integral part of this public safety dispatch operation. Alarm company mobile frequencies may also be used to dispatch units of a private security force or to coordinate security operations over broad areas, such as campuses, neighborhoods or large facilities, reducing the burden on police and fire agencies. For these reasons, the Commission should include those channels currently assigned for the exclusive use of central station alarm companies, and the offset frequencies in-between, exempt “public safety radio service” frequencies.

By classifying central station alarm frequencies in the 460 megahertz band as public safety radio services, CSAA emphasizes that the Commission is not being asked to extend the statutory exemption from auctions to alarm company communications operating on other frequency bands. It would simply be excluding from auction a small group of already-restricted channels that are currently used by the alarm industry in providing its public safety function. Likewise, the alarm industry is not seeking to gain access to the traditional public safety channels used by State and local government entities. CSAA and its members do not seek access to traditional public safety channels and are not calling for an exemption from competitive bidding on other private radio frequencies utilized by alarm monitoring businesses, so long as the current CSAA fixed signaling and mobile channels are exempted from auction and the use restriction is maintained in its present form.

a. The Radio Services Utilized By Central Station Alarm Companies Fall Within the Definition of “Private Internal Radio Services” Used in the Balanced Budget Act

Because central station alarm frequencies are private internal radio services that are used by non-government entities to protect the safety of life, health and property, and

the use of such frequencies are not made commercially available to the public, central station alarm company channels fall within the definition of “public safety radio services” used in the Balanced Budget Act. The FCC should therefore include alarm industry channels among those that are exempt from licensing by auction.

The Commission has proposed to define private internal radio services by incorporating its definition of “private services” from the 1993 Budget Act with its Part 90 definition of internal systems, and expanding the definition to include both fixed and mobile services.⁹ CSAA supports this proposal with some clarifications. As the Commission notes, the Part 90 Rules currently define an “internal system” as a system in which “all messages are transmitted between the fixed operating positions located on the premises controlled by the licensee and the associated mobile stations or paging receivers of the licensee.”¹⁰ However, certain alarm company fixed signaling radios and other monitoring equipment are generally installed on customer premises, which may not be viewed as “controlled by the licensee” in the traditional sense. This fact should not prevent the FCC from viewing low-power alarm monitoring operations on reserved central station channels as private internal radio services. Regardless of where they are located, central station alarm radios are installed, maintained and operated exclusively by alarm company personnel. An alarm company may not *control* the secured premises, in the strictest sense, but they control the alarm panel and related radio, pursuant to their agreement with the customer; also, the content of all communications on alarm company channels is controlled exclusively by the alarm company and relates to the core security

⁹ Notice, at para. 32.

¹⁰ *Id.*, citing 47 C.F.R. § 90.7.

functions of an alarm company's business. Thus, the alarm company exercises adequate control over the necessary portion of the premises where the radio is used.

Alternatively, the Commission may simply view customer premises radios that operate on central station alarm frequencies as "associated mobile stations" of the licensee. Such an interpretation is consistent with the Commission's policy of licensing alarm customers as mobile units. The Commission upheld this policy in 1996, after recognizing that central station alarm companies serve a very large customer base, and disclosure of coordinates for alarm system subscribers could provide burglars with a list of attractive properties because the FCC's licensing records are open to public inspection.¹¹ Thus, the channels designated by the Commission for the exclusive use of central station alarm companies are used to provide "private internal radio services" despite the fact that remote transmitters may be located on a customer's premises. The Commission should ensure that the definition of this term has the flexibility to reflect the nature of central station alarm radio operations.

b. The Legislative History of the Balanced Budget Act Supports the Inclusion of Central Station Alarm Operations as "Public Safety Radio Services"

Alarm companies are exactly the type of non-governmental entities that Congress sought to exempt from auctions when it adopted the Balanced Budget Act and expanded the Commission's competitive bidding authority. The legislative history of the Balanced Budget Act indicates that the definition for "public safety radio services" includes "private internal radio services used by utilities, railroads, metropolitan transit systems,

¹¹ See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Memorandum Opinion and Order*, FCC 96-492 (*rel. Dec. 30, 1996*) at ¶ 69.

pipelines, private ambulances, and volunteer fire departments.”¹² This list is not exhaustive, but the Conference Report provides further guidance in that “the services offered by these entities protect the safety of life, health or property and are not made commercially available to the public.”¹³

Central station alarm communications fit squarely among the private internal radio services used by the industries and entities listed by Congress in its Conference Report. Each of the industries or entities mentioned provides an important public service and its internal communications are used to protect the safety of life, health and property. Central station alarm companies count the safety of life, health and property as their central mission. Each industry or entity requires secure, reliable communications to ensure the integrity of its operations. The same is true for alarm companies, which would be unable to function without reliable communications. Moreover, each industry or entity (with the exception of volunteer fire departments) is operated for profit, but its communications services are not made commercially available to the public. Alarm companies do not make the radio available for the customer’s private use, nor do they sell such radio service commercially to the public. The alarm customer has no control over the content of messages sent over the alarm channels. Instead, alarm companies use the radio channels internally as a tool to accomplish their safety-related service. Thus, alarm industry radio operations on reserved central station frequencies are the very type of “public safety radio services” that Congress intended to exempt from auctions.¹⁴

¹² H.R. Conf. Rep. No. 105-217, 105th Cong., 1st Sess. (1997) (“Conference Report”), at 572.

¹³ *Id.*

¹⁴ At paragraph 37 of the *Notice*, the Commission discusses whether non-government public safety entities should be required to obtain written government approval. The Commission acknowledges that this requirement is not contained in the Balanced Budget Act, and that the public safety exemption is much broader than the public safety definition contained in Section 337(f)(1) of the Act. *Notice* at paragraph 21.

IV. ALARM INDUSTRY EXCLUSIVE USE CHANNELS SHOULD BE LICENSED UNDER EXISTING RULES, WITH COORDINATION BY THE ALARM INDUSTRY COMMUNICATIONS COMMITTEE

As an exempt public safety radio service, the FCC should continue licensing the central station exclusive use channels on a first-come-first-served basis. This licensing methodology ensures efficient and intensive use of spectrum and alleviates administrative burdens on the Commission, since companies that are eligible for these frequencies must first complete the coordination process and resolve any potential conflicts before they are allowed to file their applications. To further preserve the integrity of these channels, the FCC should designate the Alarm Industry Communications Committee ("AICC"), an affiliate of CSAA, as the exclusive coordinator for the frequencies reserved for central station use.

Rule Section 90.35(c)(63) defines central station commercial protection service as an electrical protection and supervisory service rendered to the public from and by a central station accepted and certified by one or more of the recognized rating agencies, or the Underwriters' Laboratories (UL), or Factory Mutual System. AICC has found that in practice, other frequency coordinators do not always investigate whether a company calling itself a central station alarm company is a recognized central station alarm company within the definition of the FCC rules. As a result, companies have been licensed that do not meet the eligibility requirements.¹⁵

The Commission therefore should not impose a "written approval" requirement. The public safety role of entities like central station providers, auto clubs, utilities and others is self evident, and has often been recognized by Congress and the Commission. A written approval requirement would impose an unnecessary burden on state and local governments and service providers alike.

¹⁵ See e.g., April 30, 1999 Letter of CSAA to Mary Shultz, Chief, Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division re: Application of Sam D. Gardali d/b/a Aircall Wireless, for authority to operate on central station frequency 466.000 MHz, FCC File No. C010107.

By designating AICC as the exclusive coordinator of the central station alarm frequencies, the Commission would be ensuring that the frequencies will be used for the purpose that they were established, namely, central station alarm operations.

V. THE CENTRAL STATION ALARM ASSOCIATION SUPPORTS THE CREATION OF A “PUBLIC SERVICE” FREQUENCY POOL

The Commission has asked for comment on a petition filed by UTC, The Telecommunications Association, the American Petroleum Institute, and the Association of American Railroads¹⁶ asking the FCC to create a third radio pool (the “Public Service Pool”) for entities that do not qualify for Public Safety Pool spectrum, but are included among the “public safety radio services” that Congress has indicated should be exempt from auctions.

CSAA supports the Commission’s designation of a third frequency pool, since this proposal helps to implement Congress’ recognition that certain non-governmental entities play an important role in public safety. CSAA has demonstrated above that the alarm frequencies should be entitled to an exemption from auctions, without regard to the third pool proposal. If the Commission determines that the best way to implement such exemption is to reclassify all exempt parties as “Public Service Pool” entities, CSAA would not object to such classification for central station alarm operations, so long as it recognizes that the channels that are currently set aside for the exclusive use of UL-listed central station alarm companies should retain their current use restriction. An exemption from auction authority would be meaningless, and alarm company operations could be rendered ineffective, if these few central station channels are made available to other

¹⁶ See UTC, The Telecommunications Association, the American Petroleum Institute, and the Association of American Railroads, Petition for Rulemaking (*filed* Aug. 14, 1998).

users. CSAA supports a multiple-coordinator licensing scheme for the Public Service Radio Pool, if such a frequency pool is adopted. As discussed above, CSAA believes the integrity of alarm communications would be protected best if the alarm industry is given exclusive responsibility for coordinating the use of central station exclusive use channels, and the other members of the pool retain their exclusive coordinator status.

VI. COMPETITIVE BIDDING METHODOLOGY AND DESIGN

For other private radio services that may be utilized by UL-listed central station alarm companies, but have not been set aside for their exclusive use, and for certain alarm company channels outside of urbanized areas of 200,000 or more population, CSAA does not seek to extend the public safety exemption. Instead, the licensing methodology for these channels should be tied to the Commission's resolution of the industry's general concerns about the proposed auction scheme. If the Commission does adopt an auction scheme, it should formulate rules that facilitate the ability of licensees in the Public Safety Radio Pool, as well as licensees in the Public Service Pool, to compete in the open market for additional spectrum.

If the Commission finds it in the public interest to conduct auctions for private radio channels, CSAA believes the geographic license areas for licensing, and size of channel blocks, should be small enough to facilitate successful participation in auctions by small companies that provide public safety services, and to allow the creation of the small, customized service areas that are commonplace under the current licensing scheme.

CSAA also supports the adoption of public safety and/or public service bidding credits for any spectrum that is used solely for the internal use of a public safety or public

service licensee. Such a "public interest" bidding credit should be provided above and beyond any bidding credits that the Commission makes available to small businesses. Eligibility for a "public interest" bidding credit could be determined by an applicant's certification that it is eligible for licensing as part of the public safety or public service radio pool.

VII. CONCLUSION

For the reasons stated herein, CSAA respectfully requests that the channels traditionally set aside for the exclusive use of central station protective services be classified as a "public safety radio service" that is exempt from auction. The alarm industry should also be given exclusive responsibility for coordinating the use of central station exclusive use channels to further protect the integrity of these vital communications.

Respectfully Submitted,
Central Station Alarm Association

By

A handwritten signature in black ink, appearing to read "John A. Prendergast", is written over a horizontal line.

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Date: August 2, 1999

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